

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DEWEY ODELL HOPPER,

Petitioner,

v.

MICHELE BUCKNER,

Respondent.

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No. 4:21-CV-373-NAB

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on petitioner's application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is successive and shall be summarily dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

Petitioner is currently incarcerated at South Central Correctional Center in Licking, Missouri. On November 23, 2010, a jury found petitioner guilty of one count of forcible rape in violation of Missouri Revised Statute § 556.030. *Missouri v. Hopper*, No. 05F6-CR00343-02 (Dunklin Cty. Cir. Ct.). On December 22, 2010, the Missouri state court sentenced him to 50 years' imprisonment. The Missouri Court of Appeals affirmed the judgment and sentence on December 7, 2011. *Hopper v. Missouri*, No. SD31055-1 (Mo. Ct. App.). Petitioner did not seek transfer to the Missouri Supreme Court.

Petitioner filed a pro se motion for post-conviction relief under Missouri Court Rule 29.15 in the Circuit Court for Dunklin County on March 1, 2012. *Hopper v. Missouri*, No. 12DU-

CC00027 (Dunklin Cty. Cir. Ct.). On January 4, 2016, after an evidentiary hearing, petitioner's claims for post-conviction relief were denied by the Circuit Court. On February 11, 2016, petitioner filed a notice of appeal with the Missouri Court of Appeals for the Southern District. *Hopper v. Missouri*, No. SD34340 (Mo. Ct. App.). On November 29, 2016, the Missouri Court of Appeals affirmed the Circuit Court's denial of post-conviction relief.

Petitioner filed his first petition for writ of habeas corpus in this Court on October 2, 2017. *See Hopper v. Norman*, No. 4:17-CV-2601-SRW (E.D. Mo.). On September 21, 2020, this Court denied petitioner's writ of habeas corpus. *Id.* at ECF No. 22.

Under 28 U.S.C. § 2244(a) and § 2255(h) district courts may not entertain a second or successive motion to vacate unless it has first been certified by the Court of Appeals. The instant petition has not been certified by the Court of Appeals for the Eighth Circuit. As a result the Court may not grant the requested relief.

To the extent that petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition shall be dismissed.


Accordingly,

IT IS HEREBY ORDERED that petitioner's petition for writ of habeas corpus is **DISMISSED AS SUCCESSIVE**.

IT IS FURTHER ORDERED that the Court declines to issue a certificate of appealability.

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 3rd day of September, 2021.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE